

No. 03-16542

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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CAROL J. NELSON,

Plaintiff-Appellee

v.

ROBERT ALAN JONES,

Defendant-Appellant

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ON APPEAL FROM THE ORDER OF THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT OF HAWAII  
No. 01-CV-182-HG

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OPENING BRIEF FOR THE APPELLANT

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ROBERT ALAN JONES

*Pro Se*

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Las Vegas, Nevada 89119

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Exhibit "B"

**ISSUES PRESENTED**

1. Whether the District Court erred in the construction and application of State of Hawaii law in the instant underlying case wherein the Erie doctrine applied to make Hawaii law the dispositive substantive law, and thus erred in granting summary judgment against the Defendant/Appellant where it concluded as a matter of law that Defendant had no ownership rights to the subject property?
2. Whether the District Court erred in granting summary judgment against the Defendant/Appellant where the Plaintiff/Appellee presented insufficient evidence of an absence of a genuine issue of material fact regarding the existence of a material breach of the agreement and total failure of consideration?
3. Whether the District Court erred in the construction and application of Hawaii law where it exercised its equity powers to cancel the agreement and impose a forfeiture, and thus erred in granting summary judgment against the Defendant/Appellant imposing a total forfeiture of Defendant's interest, investment, and equity in the subject real property?

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

CAROL J. NELSON, ) Civil No. 01-00182 HG-LEK

Plaintiff,

vs.

ALAN JONES; DOES 1-30,

Defendants.

ROBERT ALAN JONES, a Nevada  
resident,

Counterclaimant

vs.

CAROL NELSON, a Hawaii  
resident, MICHAEL CETRARO,  
a Montana resident, CHARLES  
HEAUKULANI, Esq., a Hawaii  
resident, ROBERT SHELBY,  
Esq., a Utah resident, MICHAEL  
BILANZICH, a Utah resident  
and JEFFREY GROSS, Esq., a  
Utah resident,

Counterclaim  
Defendants.

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify that on the below date a true and correct copy of the

foregoing document was served upon the following individuals by depositing same in the United States mail, postage prepaid:

Robert E. Chapman  
Mary Martin  
Topa Tower, Suite 2100  
700 Bishop Street  
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, February 8, 2006

A handwritten signature in black ink, appearing to read 'Enver W. Painter, Jr.', written over a horizontal line.

ENVER W. PAINTER, JR.  
Attorney for Plaintiff/Counterclaim  
Defendant Carol J. Nelson and Counterclaim  
Defendant Michael Cetraro